IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 122 OF 1988

The Commissioner of Income-tax,
Bombay City-III, Bombay. ...Applicant
V/s.
Siemens A.C. (West Germany). ...Respondent

Mr.D.S. Chopra for Applicant-Revenue.
None for Respondent-Assessee.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JULY 5, 2005.

P.C. :-

. This is the reference made by the Income Tax Appellate Tribunal arising out of the order of the Tribunal, for the assessment year 1973-74. The following questions are referred for our opinion :-

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that there was not business connection between the assessee and the Indian company and that therefore the amounts received by the assessee company on account of (1) Technical knowhow fee of Rs.2,48,704; (ii) know-how changes Rs.56,002; (iii) Cost of drawings of Rs.1,00,291/- do not represent

income accruing/arising in India and are therefore not taxable?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the comission of Rs.1,91,533/-, received by the aseesee company from Cable Corporation of India was not taxable in India. On the reasoning that the services in connection therewith were rendered outside India and the payment was also outside India? "

2. The above questions are squarely covered by the Judgment of the Apex Court in the case of **Carborandum Co. V/s. C.I.T., Madras, (1977) 108 ITR 335**.

3. In view of the law laid down by the Apex Court, both the questions are answered in favour of the assessee and against the revenue. Reference, accordingly, stands disposed of with no order as to costs.

(A.S. AGUIAR, J.) **(V.C. DAGA, J.)**